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## United States Senate

WASHINGTON, DC 20510-5603

### STATEMENT OF SENATOR CRAIG THOMAS

I would like to thank the National Park Service for holding these public meetings to hear the concerns of local citizens regarding the Winter Use EIS for Yellowstone and Grand Teton National Parks. As Chairman of the Senate Energy Committee's Subcommittee on Parks and Recreation, I worked very hard to ensure that the State of Wyoming and the local counties were included as cooperating agencies in this process. Park and Teton Counties as well as the State of Wyoming have been actively involved in the EIS and have provided valuable information to the Park Service regarding the document.

When the federal government undertakes actions that will have a direct impact on local communities, it is vital that they include representatives from the impacted areas in that process. While I commend the Park Service for providing cooperating agency status to a number of the impacted counties in Wyoming, Idaho and Montana, I do not believe the agency has adequately listened to their concerns. I had hoped the EIS process would help the Park Service develop a solution that addresses the needs of local citizens as well as the federal government. Unfortunately, after reviewing the draft EIS, that does not seem to be the case.

I do not support the preferred alternative the Park Service has proposed in the draft EIS. The purpose of our national parks is to protect our natural and cultural resources and provide visitors with a pleasurable experience. The preferred alternative fails to meet that objective. It does not adequately address the issues facing Yellowstone and Teton Parks and the concerns of individuals living in the local communities. I urge the Park Service to reconsider its alternative. The agency should develop a final plan that truly protects wildlife and mitigates the impacts of winter use on the area, while at the same time allows park visitors access to the area for a range of winter recreation experiences.

Thank you once again for holding this hearing today. I look forward to working with the Park Service on this important issue as this process moves forward.

**SENATOR CRAIG THOMAS, U.S. CONGRESS**

Re: Based on DEIS, NPS has not adequately listened to the concerns of cooperating agencies. In the process of reviewing and commenting on the DEIS, an inordinate amount of focus has been placed upon the designation of alternative B as the preferred alternative. This has colored the response, and the relationship between lead and cooperating agencies. Clearly, cooperating agencies are concerned about this designation because of the perceived impacts of plowing the road from West Yellowstone to Old Faithful for wheeled vehicle access. Since the NPS has indicated it is leaning heavily toward DEIS alternative G instead of alternative B, it appears that a disproportionate amount of time was spent on alternative B and its consequences. NPS is investigating a full range of alternatives in the DEIS. Various features of each of these alternatives may be mixed and matched in the eventual decision. NPS feels that much of the criticism of the EIS, per se, is misdirected because the concern is really about the decision yet to be made. NPS wishes to perform a legal and fair analysis of impacts, limited by the time available under the court settlement. The cooperators have been included, and their input has been considered and documented in the DEIS. NPS respectfully submits that the cooperators feel they have not been listened to because of the decision they think NPS is going to make, not the adequacy of the EIS.

Re: The preferred alternative does not adequately address the issues facing the parks and the concerns of the local communities. Please see previous response. Considering the types and amounts of winter recreation use and the impacts that are at issue (i.e. sound, air pollution, health and safety, effects on other visitors, and damage to wildlife), alternative B is a possible approach to addressing some of the issues. At the time of DEIS' publication, it appeared to be the best approach to the Park Service, as presented on pages 38-39.

CEQ Regulations do not stipulate the rationale for selecting a preferred alternative in an EIS. It stipulates that in a final EIS, a preferred alternative must be identified. The statement of preference for one or more alternatives in a DEIS is discretionary, depending upon whether the agency has a preference at that point (§1502.14(e)). The identification of a preferred alternative in a DEIS should be regarded by the public as extremely tenuous. This is because an EIS is to serve as a means of assessing impacts of proposed agency actions "rather than justifying decisions already made" (§1502.2(g)). The FEIS preferred alternative may be viewed more as a "precursor" decision, which will only become final in a Record of Decision that expresses the rationale for the choice. In any case, it is clear that merely the expression of a preferred alternative, by itself, can in no way invalidate the entire EIS analysis. The decision maker can select any of the proffered alternatives in a Final EIS through consideration of a variety of factors, including but not limited to environmental impacts. The selected alternative does not have to be the most environmentally preferable alternative, which must also be revealed in the decision document.

Re: NPS should develop a final plan that protects wildlife, mitigates impacts and allows access for a range of winter recreation experiences. This comment goes to the decision to be made, not to the adequacy of the EIS or the range of alternatives considered. However, the statement is essentially how NPS views the purpose and need for action, and how it constructed the range of alternatives. Under NEPA (see previous response), a decision is not made until it is made in a record of decision based on a final EIS. The decision maker must consider the full range of alternatives available in the EIS and carefully weigh all the possible impacts against the agency mandate, regulations, executive orders and policies. The alternatives presented and analyzed in the DEIS include actions supported by cooperating agencies, mostly identified as Revised Alternative E, and features of other alternatives.